

REMARKS

Upon entry of this Amendment, which amends Claims 1-7, 10-13, 16, 17, 20, 21, 23, 24, 26-31 and 33, Claims 1-33 remain pending in the present application. In the May 10, 2004 Office Action, the specification was objected to for a minor informality. Claims 9, 11, 26 and 33 were rejected under 35 U.S.C. § 112, Second Paragraph, as allegedly being indefinite. Claims 1-7 and 9-33 were rejected under 35 U.S.C. § 102 as allegedly being anticipated by prior art described in the patent application specification (referred to by the examiner as “AAPA”). Finally, Claim 8 was rejected under § 103(a) as allegedly being unpatentable over AAPA in view of U.S. Patent No. 6,704,546 to Lucidarme et al. Applicant respectfully requests reconsideration of the claims in view of the above amendments and the comments below.

***Objections to the Specification***

On page 2 of the May 10, 2004 Office Action, the specification was objected to for a typographical error relating to the reference number used to identify the baseband processor 108 in Figure 3 of the drawings. The typographical error has been corrected in this Amendment. Applicant requests, therefore, that the objection now be removed.

***35 U.S.C. § 112 Claim Rejections – 9, 11, 26 and 33***

On page 2 of the Office Action, Claims 9, 11, 26 and 33 were rejected under 35 U.S.C. § 112, Second Paragraph, as allegedly being indefinite. Specifically, use of the word “about” in the rejected claims was objected to, since, allegedly “it is unclear

whether the limitations [qualified by the word “about”] “are part of the claimed invention”. For the following reasons, Applicant respectfully disagrees with these claim rejections.

Section 2173.05(b) of the M.P.E.P. states that variable terms in claims may or may not be indefinite. Indeed, the Federal Circuit Court of Appeals itself has held that a variable term – specifically, the word “about” – may be definite in a claim, so long as the variability expressed in the claim can be assessed in determining whether or not there is infringement. *See* M.P.E.P. § 2173.05(b) *quoting* *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983) (“the stretch rate of a plastic as ‘exceeding about 10% per second’ is definite because infringement could clearly be assessed through the use of a stopwatch.”) Here, similar to as in *W.L. Gore & Associates*, the “about \_\_\_\_ kHz” terms used in the claims of the present application could be easily assessed by use of electronic measuring equipment. Accordingly, Applicant respectfully believes that the § 112 rejections of Claims 9, 11, 26 and 33 are improper, and requests that the rejections be withdrawn. (Applicant notes that Section 2173.05(d), which the examiner cites to support the § 112 rejections of the claims in the present application, does not appear to be applicable here. Section 2173.05(d) is directed at use of exemplary claim language (*e.g.*, use of the phrase “example”). The word “about” is not an “exemplary” term; rather, according to Section 2173.05(b), it is a “variable” claim term.)

***35 U.S.C. § 102 Claim Rejections – Claims 1-7 and 9-33***

On pages 2-8 of the Office Action, Claims 1-7 and 9-33 were rejected under 35 U.S.C. § 102 as allegedly being anticipated by prior art described in the patent application specification (referred to by the examiner as “AAPA”). For the following reasons Applicant respectfully disagrees.

The AAPA describes how a receiver in the prior art uses two separate channels to downconvert a received signal having narrowband and wideband signal components. (*See* ¶¶ [0015] – [0019] of the specification.) A first downconverter path of the AAPA receiver downconverts the narrowband signal component. A second downconverter path of the AAPA receiver downconverts the wideband signal component. In other words, two separate and distinct downconverter paths are used to downconvert the narrowband and wideband signal components of the received signal. The patent specification also describes how each of the first and second downconverter paths contains its own I- and Q-channel anti-aliasing filters 48a and 48b (four filters total), and I- and Q-channel analog to digital converters (four converters total).

By contrast, all of the independent claims (*i.e.*, Claims 1, 12, 20 and 26) of the present application recited how a “single downconverter” that downconverts both the wideband and narrowband signal components of the received signal. The AAPA simply does not teach this aspect of the independent claims. For at least this reason, Applicant respectfully believes that independent Claims 1, 12, 20 and 26 are allowable over the AAPA. Applicant requests, therefore, that the § 102 rejections of independent Claims 1, 12, 20 and 26 be withdrawn.

Each of the remaining claims pending in the present application claims dependency from one of the four independent claims. Accordingly, these dependent claims derive patentability as depending from what appear (see discussion above) to be allowable base claims. Applicant respectfully requests, therefore, that the § 102 rejections of the dependent claims also be withdrawn.

***35 U.S.C. § 103(a) Claim Rejections – Claim 8***

On pages 8-9 of the Office Action, Claim 8 was rejected under § 103(a) as allegedly being unpatentable over AAPA in view of U.S. Patent No. 6,704,546 to Lucidarme et al. Claim 8 is a dependent claim, claiming dependency from independent Claim 1. Above, it was discussed why independent Claim 1 was allowable over the AAPA. Those same reasons apply to dependent Claim 8. Combining Lucidarme et al. with the AAPA, or modifying the AAPA by Lucidarme et al. does not change this conclusion. Applicant requests, therefore, that the § 103(a) rejection of Claim 8 be withdrawn.

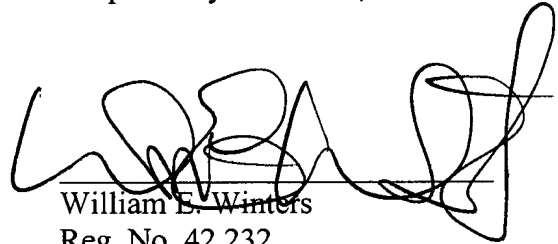
CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 408-282-1857.

Respectfully submitted,

Dated: SEPT. 23, 2004



William E. Winters  
Reg. No. 42,232

THELEN REID & PRIEST LLP  
P.O. Box 640640  
San Jose, CA 95164-0640  
(408) 282-1857 Telephone  
(408) 287-8040 Facsimile